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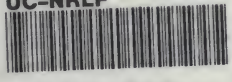

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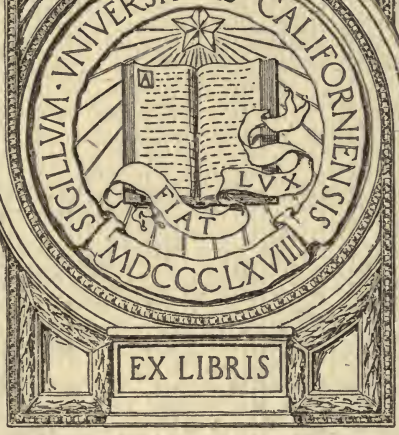

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STATEMENT

OF

Mr. EDWARD MORRIS, *President*

OF

MORRIS & COMPANY

BEFORE THE

Committee on Agriculture and Forestry of the Senate of the United States with Reference to the Kendrick Bill, which Provides for the Licensing of the Packing Industry.

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Mr. Chairman and Gentlemen of the Committee:

Before entering upon a detailed discussion of the merits of the bill under consideration I wish to say that this bill, should it become law, will substitute for the acknowledged efficiency of the packing industry a period of experiment that must bring in its train chaos and disaster.

This efficiency, the result of one-half a century of personal supervision, is not only the real reason for the moderate success of the business, but is one of the fundamental reasons why the price of meat is no higher to the consumer. *Wipe efficiency out and put in its place experiments,* turn out men who know and put in their places men who desire to see if theories will work, abandon the knowledge accumulated by 50 years' study and sail blithely forth on uncharted seas, and there will be brought about a state of affairs which it will take years to correct and the cost of which it is impossible to calculate.

Should the bill become a law the Secretary of Agriculture, who is charged with carrying out its provisions, must be a *superman.* He is authorized to fix the "proper prices" at which raw material is purchased, finished product sold, and the time of purchase and sale. His judgment of value is to be supreme despite any opposing opinion of experts. In him must be combined the accumulated business wisdom of the world. His word is law. He is the law.

The packer is a manufacturer and distributor between the producer and the consumer. If his business is conducted efficiently and at a reasonable profit, then he is without blame, and there can be no necessity or reason for any experimental legislation against him.

The great difficulty of the packer is the fact that the producer wants a high price for the live animal, which is

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the packer's raw material, and the consumer wants to pay a low price for meats, which is the packer's finished product. It is physically and absolutely impossible to accomplish both of these results at the same time.

You cannot have cheap meat on the table and pay high prices for the live meat animal on the hoof, and statistics show that there has been a greater increase in the price of the live animal than in meats.

In the distribution and sale of the finished product the packer is dealing with a highly perishable commodity. Fresh meats will keep only for a short time, and, therefore, must be sold on the open market for the best price obtainable.

Because everybody is a consumer, the packing business is extremely sensitive to criticism. Consequently any considerable agitation against the packers is reflected in less consumption, and this in turn means less demand for the live meat animal, and a lessened demand means loss to the producer.

In this connection I cannot refrain from calling your attention to the great agitation in England and South America at this time against the American meat packers, due solely to the sensational charges against them in this country. London newspapers are printing letters from indignant readers who demand that only home grown products be consumed. *The campaign against American* meats is on. Much is said about America going out to get the markets of the world, and we are building a great merchant marine for that purpose. England also wants her share of the world trade; *but you do not see England attacking her business. She stands squarely behind her business men,* striving always to cut down cost and bring up efficiency, all in the interest of English labor, producer and manufacturer, thus enabling her to successfully compete for the world trade. We now have one embargo on certain American goods, and I want to say to you with

all possible emphasis that if meat exports are wiped out it will not be long until the price of live stock will sharply decline, production will be cut down and labor have less opportunities for employment. I say, deliberately, that it is in the vital interest of the producer and of labor that our meat exports be not disturbed; but they necessarily will be if constant agitation against the packers is to be kept up in this country. I maintain that there should be hearty co-operation between the Government, the producer, the consumer and the packer.

The packer desires to pay sufficient for the live animal to encourage production and to sell the meats cheaply enough to encourage consumption.

Volume means everything in the packing industry. Great volume, which means the big packer, enables the packer to utilize all of the by-products, which is in the interest of both the producer and the consumer, because it enables the packer to sell the meat more cheaply to the consumer, and at the same time to pay a higher price to the producer for the live meat animal.

The big packer is a benefit to the people not only in times of peace but during war. Large units are absolutely essential to meet the great demands of the Army and the Navy. This was demonstrated in the recent great world crisis.

The percentage of the profits of the packers has been less than the profits of any other large industry in this country. During the last five years the profits of Morris & Company have averaged about one and one-half cents on every dollar of sales, and have been 77c per head, including cattle, sheep, and hogs, and on meats have been a fraction under one-third of one cent per pound, and this includes the profits on by-products. The profits for the fiscal year ending November 2, 1918, were 7.24 per cent. on the total capital invested, including borrowed money, and 9.39 per cent. on the money invested

by Morris & Company in the business, and while the sales of Morris & Company in 1918 exceeded the sales in 1917 by more than One Hundred Million Dollars, still, the profits were over One Million Dollars less than in 1917.

The price for the live meat animal has been constantly advancing during the last few years. The average price paid by the packers during the year 1914 for native steers was $9.90 per one hundred pounds; in the year 1915 it was $9.57; in the year 1916 it was $10.42; in the year 1917 it was $14.17; and in the year 1918 it was $16.25, the top price in 1914 being $11.55, and the top price in 1918 being $20.50.

The average price for light steers in 1914 was $9.25 per one hundred pounds; in the year 1915 it was $9.42; in the year 1916 it was $9.30; in the year 1917 it was $12.60; and in the year 1918 it was $14.62, the top price in 1914 being $13.00, and the top price in 1918 being $20.25.

The average price for hogs in 1914 was $8.27 per one hundred pounds; in the year 1915 it was $7.37; in the year 1916 it was $9.05; in the year 1917 it was $14.87; and in the year 1918 it was $17.47, the top price in 1914 being $10.15, and the top price in 1918 being $20.95.

The average price paid for native sheep in 1914 was $4.75 per one hundred pounds; in the year 1915 it was $5.50; in the year 1916 it was $6.62; in the year 1917 it was $9.50, and in the year 1918 it was $10.00, the top price in 1914 being $7.00, and the top price in 1918 being $17.50.

The average price for lambs and yearlings during the year 1914 was $7.25 per one hundred pounds; in the year 1915 it was $7.50; in the year 1916 it was $9.75; in the year 1917 it was $13.75; and in the year 1918 it was $14.75, the top price in 1914 being $9.50, and the top price in 1918 being $21.50.

If the packers' profit of one-third cent per pound was entirely eliminated and the price of the live meat animal is to remain as at present, what relief from present high

prices can be expected by the consumer, should this bill become a law?

It is very unfortunate indeed when it was decided to make the investigation of the five packers that it did not include both the producer and the retailer, to ascertain whether proper economies are being practiced by them, whether their profits are reasonable and to ascertain whether there is any real necessity for legislation on the meat food problem.

I want to say, just as positively as the English language will permit, that Morris & Company is not in any agreement to control the price to be paid for the live meat animal or the price to be obtained for fresh meats or meat food products.

The fact, if it be a fact, that the five big packers purchase approximately the same percentage of live meat animals each year proves nothing, because each company has its regular organization, its plant capacities, and its distributing facilities. But this percentage is not any more uniform than the percentage of long-established businesses in other large industries. I dare say that the relative percentage of business done by different competing railroads in the same territory covering a period of years, under the law of general average, will be closer than the percentage of buy by the five big packers. And yet no one would charge that these particular railroads were in an illegal agreement on the subject.

The volume of the packers is so large that the giving of the buy in percentages is misleading. For instance, the variation of one per cent. in the Morris cattle purchase would represent 76,000 cattle, about ten weeks' kill at the Chicago plant, or three weeks' kill at all of the Morris plants.

There is no agreement to buy a fixed and definite percentage of the live animals. If there was such an agreement, it would necessarily be reflected in the price paid

for the live stock, that is, to depress the price, while the indisputable fact is that the price has been constantly advancing for several years; and if there were such an agreement, it would also be necessarily reflected in the profits of the business, and the fact is that the profits are entirely reasonable. If there were such an agreement, it would be known by some of the many thousands of employees of the packers, many of whom are now discharged and consequently dissatisfied. And it would also have been discovered by the representatives of the Bureau of Markets under the Department of Agriculture stationed in the various stock yards and at the branch house markets in the eastern cities.

The packers performed not only a patriotic duty to this country during the war, but they also stood the fiery test in the great world crisis in the cause of international liberty and freedom, without asking, or receiving, any financial aid whatever from the Government. They are still feeding the Army and the Navy and the Allies. They have been heavy borrowers, and are now carrying a very big load. They have large stores of products on hand which were bought on a very high market. Prices will in time decline, and this will necessarily mean big losses to these packers. We are now facing great problems with a spirit of unrest, and are passing through the period of reconstruction, and there should be no radical or experimental legislation affecting this great industry when there is no necessity for it.

In order that you may know the extent of our business, I will say that the slaughter of Morris & Company for our last fiscal year was, cattle, 1,372,222, which cost us $134,720,878.15; calves, 259,160, which cost us $5,291,252.82; hogs, 2,485,412, which cost us $101,355,651.06; sheep, 944,140, which cost us $11,117,733.04. In other words, during the last fiscal year Morris & Company slaughtered 5,060,934 head of cattle, calves, hogs and sheep, which cost a total sum of $252,485,515.07.

It is said that the big packers are handling too many lines of products, and particularly groceries and produce. The fact is that the big packers can handle these products to advantage and in the interest of the consumer, on account of the efficient distributing system; but the big packers are not driving the wholesale grocers or the jobbers out of business, for statistics show that in 1907 we had 2,586 wholesale grocers in the United States; in 1913 we had 3,156, and in 1918 we had 3,687, which demonstrates that the wholesale grocer has his place in the great scheme of food distribution and is here to stay. His success will be measured by the service he actually performs.

The Kendrick Bill.

With reference to the bill under consideration by this Committee, commonly known as the Kendrick Bill, I am opposed to this bill, because, in the first place, no real necessity, or reason, has been shown for any legislation against the packers. The packer is today paying the highest price for live stock in the history of the world; has more competition than ever before, and the smaller packers are prosperous and growing rapidly, with no unfair competition on the part of the five big packers; and the profits of the five big packers have been entirely reasonable. In view of these three big and controlling facts, no punitive legislation should be enacted at this time against the packers.

In the second place, no investigation whatever has been made of either the producer or the retailer, and, until such an investigation is made, it cannot be known whether proper economies are being practiced in these two branches of the great food problem or not, and whether their profits are reasonable, and, therefore, there is not the necessary foundation for legislation by Congress on the meat food problem.

In the third place, the license system is more objection-

able, as a permanent peace measure, than Government ownership; because the license system embraces all of the bad features of Government ownership, tending to produce inefficiency and added cost to the consumer, while at the same time it destroys the value of the investment.

In the fourth place, if the license system is good law for the packer, then it is necessarily good law for other business, and if the license system is once adopted as a fixed and permanent policy in this country, all individual initiative and personal ambition in business will be destroyed. *In other words, this act will serve as a precedent for business legislation generally.*

In the fifth place, the enforcement of this bill would necessarily mean a very great additional cost in the shape of Government agents, inspectors, and representatives, which added cost in the end would have to be paid by someone, and certainly the consumer and the producer would have to contribute.

It is no argument that the license system did work during the war. What was done during the war is no test, or criterion, as to what is advisable during times of peace. It is generally conceded that there must be centralization of power during war, and, on that account, all yield patriotically their rights and privileges during the war period; but that is no reason why the people in times of peace should surrender these sacred rights which belong to them, when no reason has been shown for such surrender.

Speaking now with reference to the particular provisions of this bill, the Secretary of Agriculture is charged with its enforcement.

Section 2 would require every packer doing a business in excess of $500,000 a year to obtain a license under this Act.

Section 3 would require every commission man operating in a stock yards wherein the receipts are more than

10,000 head of live stock to obtain a license (and there has been no showing made to justify this).

Section 5 provides, among other things, that no licensee shall (a) "charge an unreasonable price;" or (b) "exact an unreasonable profit;" or (c) "refrain from buying live stock for the purpose of unreasonably depressing the price of live stock in commerce;" or (d) "withhold from the market any live stock products for the purpose of unreasonably enhancing the price of live stock products in commerce."

Section 7 provides that in case of violation of Section 5, "the Secretary of Agriculture may cause to be issued an order requiring such licensee to refrain or desist from the commission of such act or practice."

Section 8 provides: "Any licensee who shall wilfully violate any of the provisions of Section 5, or any lawful order issued pursuant to Section 7, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by fine not exceeding $5,000 or imprisonment for not more than one year, or both."

Section 9 provides: "That whenever, after due notice to the licensee involved and an opportunity afforded him to be heard in accordance with regulations prescribed under this Act, it is found that such licensee has been convicted under Section 8 of this Act or has wilfully violated an order issued pursuant to Section 7 of this Act, and, in addition, that the further conduct of such licensee of his business in commerce is likely to be injurious or detrimental to commerce, the Secretary of Agriculture may suspend the license of such licensee for a period not exceeding two years, which order, upon the request of the licensee or when otherwise found to be necessary, shall permit such disposition of the business or the stocks on hand as may be required under the circumstances."

Section 11, amongst other things, provides: "For the purpose of enforcing the provisions of this Act or of veri-

fying any reports or returns made under this Act, any officer or agent of the Government designated in accordance with such regulations may during the usual hours of business enter any place used by any licensee in his business and inspect the same or any books, letters, papers, or documents relating to such business."

Section 13 provides: "That in carrying out the provisions of this Act, except Section 15 thereof, the Secretary of Agriculture may make such regulations as he may find to be necessary."

In other words, Section 5 provides that if any licensee individually violates any one of the terms mentioned above he might be convicted under this section and sent to prison simply because he did not pay what the Secretary of Agriculture might deem to be a "reasonable price" for live stock; or if he should exact what the Secretary of Agriculture deemed to be an "unreasonable profit"; or if he should refrain from buying live stock, as the Secretary of Agriculture thought, for the purpose of "unreasonably depressing the price of live stock in commerce"; or if he did not sell the finished product when the Secretary of Agriculture thought he should sell. Then, "for the purpose of enforcing the provisions of this Act or of verifying any reports or returns made under this Act, any officer or agent of the Government designated in accordance with such regulations may during the usual hours of business enter any place used by any licensee in his business and inspect the same or any books, letters, papers, or documents relating to such business." How could any law be more autocratic in any autocracy in the world? Is it possible to conceive of this as the law governing free men in a democracy for which so much blood has been spilled?

In addition to all of this, Section 9 provides that upon certain conditions the Secretary of Agriculture may cancel the license for two years, the effect of which would

necessarily be to destroy that particular plant and business altogether; because within two years the organization would be disrupted, the trade and the good will would be lost, and the properties of the company would have nothing above junk value. No one will engage in any kind of business in the future which is regulated and controlled by a law of this character.

The packer under this Act in the conduct of his business would not have the privileges of the day laborer in the plant. He would have no discretion to speak of. The Government would step in and tell him what was a reasonable price, what was a reasonable profit, when he should buy live stock, and when he was required to sell his finished product. This is not business, in any sense of the word. It is an experiment. How would it be possible to borrow the vast amounts of money that must be secured to conduct this great industry under a law of this sort? *I want to make the solemn prediction that if at any time this bill, or anything like it, is enacted into law, the packing industry will be absolutely paralyzed and destroyed.* Its influence for good both to the producer and to the consumer will be gone. No living man could conduct his business under the provisions of such a law. The moment you strike down the borrowing capacity of the packers, the producer will begin to appreciate the fact that during all the past, in times of panic as well as prosperity, he has received the packers' cold cash every day for his live animals.

If this is to be the fixed policy in this country during times of peace, what will become of individual initiative and personal ambition in business matters? How can a young man be expected to start in the packing business, if he must turn to some Government agent to ascertain what will be a "reasonable price" to be paid for the live stock, and then turn to another Government agent to ascertain what will be a "reasonable profit," and then get permission from another Government agent not to

bid on certain live stock, and also get permission of some other Government agent to withhold products from the market. This is simply unheard of in a free country. And this would be characteristic of any license law. The name itself, "license," clearly indicates that the party granting the license has the power to impose the terms. In this particular bill the terms set out in this Section 5 demonstrate the length to which a license may be carried.

In addition to that, Section 13 gives the Secretary of Agriculture the power to "make such regulation as he shall find to be necessary." Again, the Secretary is made the sole judge and arbiter as to what is "necessary." It goes without saying that what is necessary under one condition may be entirely unnecessary under another condition; and to give the Secretary of Agriculture this vast power is certainly cutting down all incentive in the individual to build up a successful business. It is a matter of common knowledge that power feeds upon power. Government officials always incline to exercise the full limit of power given. And with the powers already granted under this Act, and with the further power to issue, "such regulations as he shall find to be necessary" makes this bill doubly dangerous. We have seen instances in this country of the issuance of "regulations." The fact is that under the enforcement of any law that carries a provision of this kind, it is not long until the "regulations" become more onerous and extensive than the original terms of the law itself.

A straight out and out Government ownership would be infinitely more acceptable to Morris & Company than a law of this sort, because there would under such law, necessarily, be some provision for the payment to the present owners of what the property is reasonably and fairly worth. I want to say to you, very deliberately and very seriously, that we would infinitely rather take our money out of the business at this time than to attempt

to operate under a law such as is contemplated by this bill, because it cannot be done either successfully for the owners or in the interest of either the producer or consumer. The packing business is too complex and too risky to operate successfully with divided responsibility between the owner and the Government agents. The money could not be obtained to conduct the business under a law of this sort.

In that connection I would call your attention to the fact that there is no provision in this law guaranteeing to the packer any reasonable profit whatever. On the other hand, the industry under this bill may be constantly hampered by the agents of the Government at all hours of the day and in every possible phase and aspect of the business. This is not to be contemplated. Business cannot be conducted in that manner.

If it is the combined wisdom of Congress that some legislation should be had against the packer (although no showing has been made to justify any such legislation), and that the legislation should assume the form of a license law, we would prefer to have the Government go full length in the first instance, and go to Government ownership, take over these properties at their present value and relieve us altogether from the further worries and anxieties in connection with this very sensitive and complex business. There is no use of strangling the industry by degrees, and there is no good reason, in view of the service that these big packers have rendered to the people of this country, both in times of peace and in war, that the efficiency of the business should be destroyed and the value of the investment cut down before Government ownership, or Government operation, is openly advocated. If we must come to that, let us come to it directly and at this time, and while there is some value left in the plants and properties.

Stock Yards. Section 12 of this Act provides that

no common carrier shall deliver any live stock at any stock yards where more than ten per cent. of the "value of all stock, bonds, or other securities issued by the person conducting or operating such stock yards, or of the value of the property used in the conduct or operation of such stock yards," is owned by any one licensee, either directly or indirectly. In other words, this section prohibits any one packer having more than ten per cent. interest in any one stock yards.

Let us consider that for one moment. There has been a great deal said in this country against the packers having any interest in stock yards. I maintain that the packers are the very people who should be interested in stock yards, because the stock yards furnish a market for their raw material, and it is to their interest to keep up such yards so that they will have plenty of raw material for their packing plants located there. The fact that the packer has an interest in the stock yards cannot in any way, or to any extent, whatever, affect the price to be paid for the live stock in such yards, because these yards are public markets and any one can come into them and buy live stock offered therein for sale. Consequently, the ownership of the yards can cut no figure in the price to be obtained for the live stock. The Stock Yards has no proprietary interest whatever in the live stock offered for sale in the yards.

The principal matter of importance in connection with the stock yards is to have them conducted efficiently and without discrimination. I have yet to hear of any real evidence to the effect that the various yards of this country have not been conducted efficiently, or that any discrimination has been exercised in their conduct.

It has been contended by some that the stock yards should be treated as a part and parcel of a railroad—that is, a depot. This is entirely erroneous. The duty of the common carrier ends when it unloads the live stock into suitable unloading pens, and that is where the work

and duty of the stock yards and the commission men commence. The stock yards is a market, a sales place, not a railroad depot.

But there is one particular feature in connection with the stock yards to which I should like to call your attention. Complaint has been lodged against the packers because they "support" the various stock yards in which they are interested, and by "support" is meant that where there are big and unusual runs, due to drought, or something of that sort, the packers, having an interest in the yards, absorb these unusual runs and pay cash for the live stock, and this is in the interest of the producer. If you take the interest of these packers out of these yards, who will buy this live stock, and who will "support" these various yards?

A great deal of criticism has been lodged against the so-called "50-50" stock yards. These are small yards with usually two packers, at points near the source of production. I want to say to you that the big yards will take care of themselves. There are plenty of buyers at them, but the critical situation is at these small yards.

One of these so-called "50-50" yards is located at Oklahoma City. Some years ago there was a very strong, and proper, tendency to locate the packing houses nearer the raw material, because that would relieve the producer of a longer haul, increased freight rates and would save shrinkage. It must be self evident to this Committee that if the market is taken to the producer it must be on an infinitely smaller scale than the old established markets.

The Morris interests thought that the Southwest afforded a great opportunity to extend its business and open up and develop a new market in that territory, although it was in part occupied by its competitors, Armour and Swift at Fort Worth, and Cudahy and Dold at Wichita. It would be impossible to get any of these packers to locate a packing plant in the State of Oklahoma, or at any other point in that vicinity. If there

was an illegal combination existing between these five big packers, then, necessarily, no one of the five would enter into competition with, or open up new markets in territory occupied by, the others. It would take a lot of nerve for any other packer to locate a plant in that territory, because it would mean competition and the loss of a lot of money in the initial building up of this new market. Notwithstanding this fact, and the further fact that there is always great difficulty in building up a new market, Morris concluded to locate a plant at Oklahoma City, which it did, with stock yards, in the year 1910.

I submit that this situation very well illustrates and amplifies the dependency of the packing plant upon the stock yards and of the stock yards upon the packing plant. You cannot conceive of packing plants without a stock yards in which to buy animals to be slaughtered; nor can you conceive of a stock yards without packing plants, because it is the packing plants that make the market at the yards. When Morris concluded to build a packing plant in Oklahoma City, may I ask who would venture to build a stock yards for a one man market? Morris did build a stock yards in Oklahoma City and finally succeeded in getting Schwartzchild & Sulzberger to agree to build a packing plant also at that place.

Evidently, it was to the interest not only of the State of Oklahoma and the great Southwest, but of the cattle and hog industry, as a whole, to have this market go along and gradually be built up. Could it be built up by "ruinous competition"? In other words, if one should attempt to buy much more than his competitor, or his share, if you please, the necessary result would be retaliation, and in time one or the other would be driven out of the market and then you would have no market at all.

If this Committee has any doubt about there being actual competition between Morris and Schwartzchild &

Sulzberger, now Wilson & Co., at Oklahoma City, on the one side, and Armour and Swift at Fort Worth, on the other, all that you have to do is to read the evidence and decision in the Rate Case before the Interstate Commerce Commission, where there was a bitter fight between the two markets over the question of rates, it going to such an extent that it became a fight between the two states. I want to say to you that if the Interstate Commerce Commission had not decided the case in favor of the Oklahoma rates, there would be no "50-50" market at Oklahoma City today. We have to look at these matters as men of plain, common, horse sense.

In this connection, I want to tell you that Morris & Company purchased at Fort Worth last year more than 40,000 head of cattle and shipped them to Oklahoma City for slaughter, which shows that there is no division of territory, or fixed percentage of buy, and that we do not concede to Swift and Armour all of the live stock at Fort Worth or any other market.

Now let us consider something practical and concrete under this section as to these yards at Oklahoma City; and they are merely characteristic of several other of the smaller yards.

This section provides "That this provision shall become effective two years after the passage of this Act." I presume this language was put into this section to enable the different parties to sell their interests in these different yards; in other words, for each of them to cut down his respective interest in any one yard to ten per cent.

Now, if this bill is to be enacted into law, what will become of the yards at Oklahoma City? Who will buy the Morris interest in these yards over and above ten per cent. with this license law hanging over their heads? And what would we get for this investment, especially as it is a forced sale within two years? We have gone into

this Southwest and built up this market at great labor, and for a few years at great loss. Under this bill we have to sell all of our interest in these yards above ten per cent. within two years, and therefore at any price that any prospective purchaser may dictate, and we have no choice about the personnel of the buyer. We may thus be required to sell to parties who have no real interest in the maintenance of these yards, and so destroy for all time the great benefits that have come to this Oklahoma territory through these yards.

If it is wrong and harmful for the packers to have an interest in the stock yards of this country, then why not be consistent and prohibit them from having any interest whatever, or permit them to invest in stock yards the same as in other legitimate enterprise?

Let us see how this section works out at Oklahoma City. If Morris have to sell their interests, the stock might drift into the hands of people who would have a greater interest in some other state and which interest might be against the prosperity of the Oklahoma yards, or from an immediate profit point of view they might sell the yards to be used for altogether different purpose, which would leave the packing houses located there high and dry as far as a market is concerned and deprive the producers of a near-by outlet for their live stock. If we had to sell our holdings in these yards it might be only a short time until the grass and the weeds would grow in these pens and the entire market would be destroyed.

But I want to say, unqualifiedly, that I would rather have the Morris interests get out of the stock yards altogether than to retain a ten per cent. interest, because in the latter event, if the law does not work out as hoped by its framers, the packers, still having ten per cent. interest in the yards, would be blamed for such failure.

As this bill is drawn ten packers could legally own one hundred per cent. of all the stock yards in the country,

and yet the propaganda has been to get all of the packers out of the yards.

Let us look this matter squarely in the face, and go beyond the provisions of this bill, and suppose, for instance, that the five big packers are required to dispose of all their holdings in all of the stock yards. What would be the effect? In that event, when the producer ships his live stock to a particular market and they are put in the sales pens and offered for sale, please tell me on what possible theory they would bring any more by reason of the fact that the packers did not own any of the capital stock of the yards? What additional bidder would come forward and why will any more be bid than if the packers had some capital stock holdings in the stock yards company?

This cry against the packers' interest in the stock yards is purely sentimental. There is no merit to it. And I assert that any one who studies this question dispassionately and without prejudice will reach this conclusion, and I predict that in time the great mass of producers will reach the conclusion that it is to their best interest to have the packers interested in the stock yards.

Some complaint has been lodged against the practice of "wiring on." The fact is that when this complaint was made some years ago, Morris & Company adopted a very fixed policy against "wiring on" and we have not done any "wiring on" since that time, not because it is wrong or harmful, but merely because of the criticism growing out of the practice, and it has been our desire, if possible, to avoid all such criticism.

Refrigerator Cars. Section 15 of this Act provides that "it shall be the duty of the common carrier to furnish sufficient refrigerator cars." That is perfectly agreeable, if it will be done. The fact is that when the refrigerator car was first discovered, the railroads refused absolutely to build them and they never have fur-

nished sufficient cars for the packers. These cars are now unquestionably being operated at a loss, but they must be operated because the packers cannot distribute and sell fresh meats, which are highly perishable, without them.

There is no unfair advantage to the big packers in their ownership of refrigerator cars, because they are operated at a loss, and they pay exactly the same freight as the small packer.

The strong probability is that if this Act becomes the law, that the railroads will not furnish sufficient refrigerator cars, and what they do furnish will be used to carry other products, such as fish, potatoes, fruits, onions, etc., and they will not be in as sanitary a condition as those operated by the packers.

This cry in regard to the refrigerator cars is also purely sentimental.

There is one big fact in this connection we should not lose sight of, and that is that it is to the great advantage of the producer that there should be sufficient refrigerator cars, so that the product shall be taken quickly and regularly from the packing plants to the eastern markets, and thus enable the packers to buy the live stock when offered on the market. If these shipments are cut down so that the packing house is constantly filled, it will be impossible for the packer to absorb the live stock that is offered. There must be efficiency in the shipment and distribution of fresh meats, and this can only be done through the refrigerator cars. If the Government will require the common carrier to build and furnish promptly all cars that the packers need, there will be no complaint on that score; but it is my deliberate judgment it will never be done.

In that connection I would make this suggestion, that until it is demonstrated that the railroads will build and furnish sufficient cars for the packers' use, it is in the

interest both of the producer and the consumer, even if you disregard the packers altogether, that the packers be permitted to retain their present cars, for they have scarcely enough at this time. In my opinion, it would be most unwise to pass this bill and trust solely to the railroads for these cars, and under no circumstances should these cars be permitted to be put into other service. If the idea is to give the smaller packer refrigerator cars, I would suggest that the government build cars for the smaller packers and place them on exactly the same footing in this regard as the big packer. We have not the slightest objection to that, but we do not think our cars should be taken away from us until we are assured of others in their place.

It has been contended that the big packers' refrigerator cars average much more mileage per day than the cars of the smaller packers. This is accounted for partially by the efficiency of the big packers in keeping after their cars constantly, and seeing that they do not get sidetracked; but the main reason lies in the fact that the cars of the big packers very largely go from the packing plants in the West to the seaboard, and generally in solid trains, and, of course, these move very quickly, whereas, probably the majority of the refrigerator cars of the smaller packers are used in car route service, and these cars go to small towns and have many stops, move more slowly, and are set out on sidetracks. The fact that the Cudahy cars make the greatest mileage of any of the big packers' cars demonstrates this to be the real reason why the cars of the big packers make the greatest mileage, because Cudahy has no plant east of the Mississippi River and his cars have the longest haul to the sea coast. When the smaller packers' cars do go to the eastern market, they are not shipped to their own people who would unload and return them as promptly as our cars are handled, but they go to wholesalers and jobbers who are not interested in getting the cars back to the packing plants.

CONCLUSION.

In conclusion, I desire to state very positively that it is the earnest desire of Morris & Company to co-operate with the Government, with the producer, and with the consumer. We shall be glad to adopt any fair and reasonable suggestion that would better conditions in the industry. We want to see the producer prosper and the consumer get a square deal. The consumer has been practically lost sight of in this agitation.

I am of the opinion that anything which injuriously affects the packer will injuriously affect the producer and consumer also. Our interests are mutual, and there should be harmony between us. *I would cheerfully approve any law that would give the producer a stable market and better prices, permit the retailer to make a decent income, give the consumer meat at lower prices and allow us to operate on a reasonable profit.* I do not know what profits either the producer or the retailer has made, but I do know that Morris & Company has fed 10,000 head of cattle yearly, and these cattle were bought on the open market, and for the past two years, we made a profit of between forty and fifty dollars per head on them, while the profit in the packing business, including this feeding profit, has been less than one dollar per head.

No showing has been made against the packer which justifies punitive or experimental legislation against him. I am unalterably opposed to this bill, or any other license bill, because I know that it will destroy the efficiency of the industry, will wipe out the packers' capacity to borrow money, and will necessarily affect the producer and consumer adversely. Its destructive effect upon personal initiative and the business conditions of this country gen-

erally cannot be lost sight of. In my opinion this bill will do no one any good and will very quickly destroy this industry, resulting in great and irreparable injury to both the producer and the consumer.

Today we have grave problems in this country. We face a period of reconstruction and unrest, and, in building for the future, we should be sure of our ground and not indulge in experiments, *but we should build on solid foundations and not on theories.*

65TH CONGRESS,
3D SESSION

S. 5305.

A BILL

To stimulate the production, sale, and distribution of live stock and live-stock products, and for other purposes.

BY MR. KENDRICK.

JANUARY 7, 1919.—Read twice and referred to the Committee on Agriculture and Forestry.

65TH CONGRESS,
3D SESSION. S. 5305.

IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1919.

MR. KENDRICK introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry.

A BILL

To stimulate the production, sale, and distribution of live stock and live-stock products, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, wherever used in this Act, the word "person" means an individual, a partnership, a corporation, or two or more individuals having a joint or common interest; the word "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States, or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation; the words "live

stock" mean live or dead cattle, sheep, swine or goats; the words "live-stock products" mean all products, including meat derived from live stock; the word "licensee" means any person licensed under this Act; and any word shall import the plural or the singular, as the case demands. When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent, or other person acting for or employed by any individual, partnership, association, or corporation, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such individual, partnership, association, or corporation, as well as that of the person.

SEC. 2. That no person, the amount of whose gross sales of live-stock products for the preceding calendar year shall have exceeded $500,000, shall engage in or carry on any business of buying, selling, or shipping live stock or live-stock products in commerce unless he shall secure and hold a license, which shall be applied for and issued in accordance with regulations prescribed under this Act.

SEC. 3. That no person handling live stock on a commission basis in or in connection with any stock yards which during the last preceding fiscal year ending June thirtieth handled more than ten thousand head of live stock shall engage in or carry on the business of performing services in commerce with respect to consignments of live stock to him

unless he shall secure and hold a license, which shall be applied for and issued in accordance with regulations prescribed under this Act.

SEC. 4. That every person subject to the provisions of section two or three of this Act shall, within ninety days after the passage of this Act, or within ninety days after he becomes subject to such provisions, secure a license thereunder, which shall become effective on and after the date of its issuance. Any person who, without a license issued pursuant to this Act or whose license shall be under suspension, knowingly engages in or carries on any business for which a license is required under section two or three of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment for not more than two years, or both.

SEC. 5. That no licensee under section two of this Act shall (a) engage in any unfair, unjustly discriminatory, or deceptive practice or device in commerce; or (b) charge an unreasonable price or rate in commerce; or (c) exact an unreasonable profit for any calendar year in carrying on his business in commerce; or (d) refrain from buying live stock for the purpose of unreasonably depressing the price of live stock in commerce; or (e) withhold from the market any live-stock products for the purpose of unreasonably enhancing

the price of live-stock products in commerce; or (f) sell or otherwise transfer to or for any other licensee, or buy or otherwise receive from or for any other licensee, any live stock or live-stock products for the purpose of apportioning the supply or unreasonably affecting the price or creating a monopoly of live stock or live-stock products in commerce; or (g) conspire, combine, agree, or arrange with any other person to apportion territory for carrying on business, or to apportion purchases or sales of any commodity, or to control prices, in commerce; or (h) otherwise conspire, combine, agree, or arrange with any other person to do or otherwise aid or abet the doing of any act made unlawful by this section.

SEC. 6. That no licensee under section three of this Act shall engage in any unfair, unjustly discriminatory, wasteful, or deceptive practice or device, or charge an unreasonable price or rate for his services, in commerce, in respect to any consignment of live stock to him.

SEC. 7. That whenever upon investigation it is found that any licensee is committing any act or practice in violation of section five or six of this Act the Secretary of Agriculture may cause to be issued an order requiring such licensee to refrain or desist from the commission of such act or practice.

SEC. 8. That any licensee who shall willfully violate any provision of section five or six of this Act or any lawful order issued pursuant to section seven of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment for not more than one year, or both.

SEC. 9. That whenever, after due notice to the licensee involved and an opportunity afforded him to be heard in accordance with regulations prescribed under this Act, it is found that such licensee has been convicted under section eight of this Act or has willfully violated an order issued pursuant to section seven of this Act, and, in addition, that the further conduct of such licensee of his business in commerce is likely to be injurious or detrimental to commerce, the Secretary of Agriculture may suspend the license of such licensee for a period not exceeding two years, which order, upon the request of the licensee or when otherwise found to be necessary, shall permit such disposition of the business or the stocks on hand as may be required under the circumstances.

SEC. 10. That the Secretary of Agriculture is authorized to investigate and ascertain the demand for, the supply, consumption, costs, and prices of and the facts relating to the ownership, production, transportation, manufacture, storage, handling, or distribution of live stock or live-stock

products, including operations on and ownership of stockyards. For the efficient execution of the provisions of this Act and in order to provide information for the use of Congress, it shall be the duty of any person, when requested by an officer or agent of the Government designated in accordance with regulations prescribed under this Act, to answer correctly to the best of his knowledge, under oath or otherwise, as may be required, all questions touching his knowledge of any matter authorized to be investigated under this section, or to produce any books, letters, papers, or documents in his possession or under his control relating to such matter. Any person who shall, within a reasonable time prescribed by the officer or agent making the request, not exceeding thirty days from the date of the receipt of the request, willfully fail or refuse to answer such questions or to produce such books, letters, papers, or documents, or shall willfully give any answer that is false or misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for not more than one year, or both. Any information secured under this Act, except secret processes or formulas, shall be available for the use of either House of Congress at its request, and the Secretary of Agriculture may cause such information to be published from time to time when deemed necessary.

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SEC. 11. That every licensee shall keep such records and statements of account and make such reports or returns, verified under oath or otherwise, as will fully and correctly disclose all transactions involved in his business, in such form and at such times as may be required under regulations made pursuant to this Act. (For the purpose of enforcing the provisions of this Act or of verifying any reports or returns made under this Act, any officer or agent of the Government designated in accordance with such regulations may during the usual hours of business enter any place used by any licensee in his business and inspect the same or any books, letters, papers, or documents relating to such business.) Every licensee who wilfully (a) fails or refuses to make full and true entries, or makes any false entry, in the accounts or records of his business, or (b) alters, mutilates, conceals, or destroys any such account or record, or (c) makes any false or fraudulent return or report required under this Act, or (d) hinders, obstructs, or resists any duly authorized officer or agent of the Government in the performance of his duties under this Act, or (e) violates any regulation made pursuant to this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for not more than one year, or both.

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SEC. 12. That no common carrier, including any railroad, express company, car company, or the owner or master of any steam, sailing, or other vessel, or the receiver, trustee, or lessee of any of them, shall deliver to or unload at any stockyards owned in whole or in part by any licensee or by any stockholder, director, officer, employee, or agent thereof, any live stock which is in the custody of such common carrier in the course of transportation in commerce: *Provided*, That stockyards shall not be deemed to be so owned in whole or in part if such ownership by such licensee or licensees, or by any stockholder, director, officer, employee, or agent thereof, or by any group of stockholders, directors, officers, employees, or agents thereof, is not in excess of ten per centum of the value of all stock, bonds, or other securities issued by the person conducting or operating such stockyards, or of the value of the property used in the conduct or operation of such stockyards: *Provided further*, That this provision shall become effective two years after the passage of this Act.

SEC. 13. That in carrying out the provisions of this Act, except section fifteen thereof, the Secretary of Agriculture may make such regulations as he shall find to be necessary, and may cooperate with any department or agency of the Government or with any State or political subdivision thereof or with any person; and all returns, reports, and other papers

or documents in the possession of any such department or agency relating to the business of any licensee shall be available to the Secretary of Agriculture.

SEC. 14. That the sum of $300,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, available immediately and until expended, for carrying out the foregoing provisions of this Act, including the employment of such persons and means, the expense of such printing and publications, the payment of such rent, and the purchase of such supplies and equipment, in the District of Columbia and elsewhere, as the Secretary of Agriculture may find necessary.

SEC. 15. That the term "transportation" as used in the Act entitled "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, as amended, shall be deemed to include refrigerator cars of efficient type or types approved by the Interstate Commerce Commission for the transportation of fresh meat. It shall be the duty of every carrier subject to the provisions of the Act to provide such cars in number sufficient from time to time to accommodate the reasonable need therefor on its lines and to furnish the same with due promptness upon reasonable request therefore and without unjust discrimination; and said carriers otherwise with respect to said cars

shall be governed by the provisions of said Act relating to transportation. The failure by any carrier subject to the provisions of said Act to furnish any refrigerator car of efficient type or types, as herein described, upon reasonable request, shall be held to be a misdemeanor, and shall subject any such carrier, its officials or agents, any one or all of them, to a penalty of $100 for each such refusal; and every day's delay thereafter shall constitute a new offense, subject to a penalty of $100.

In carrying out the provisions of this Act the Interstate Commerce Commission shall cooperate with the Secretary of Agriculture.

SEC. 16. That this Act shall not be construed as repealing or limiting any other Act of Congress, but shall be construed as an enlargement of, addition to, and extension of, all existing Acts of Congress.

SEC. 17. That if any provision of this Act, or the application of such provision to certain circumstances, be held unconstitutional the remainder of the Act, and the application of such provision to circumstances other than those as to which it is held unconstitutional, shall not be affected thereby.

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